

### **REMARKS**

Applicant wishes to thank the Examiner for the courtesy extended to the telephone interview conducted on August 4, 2006. Applicant respectfully requests reconsideration of this application in view of the foregoing amendment and following remarks.

#### **Status of the Claims**

Claims 1-5, 8, 10-17, 20, 23-29, 32 and 34-36 are pending in this application. Claims 1, 13 and 25 are independent. All of the pending claims stand rejected. By this amendment, claims 1, 13 and 25 are amended. No new matter has been added by this amendment.

#### **Rejection under 35 U.S.C. §112**

In paragraph nine (9) of the office action, claims 1, 13 and 25 have been rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. The Office Action indicates that the term “sets the operating frequency of the display unit” has no support in the original specification.

In response, please note that the similar element is in the same claims. For example, claim 1 recites, *inter alia*, “a display unit configured to display the sensed image, said display unit being capable of displaying the sensed image at any one of the first and second operating frequencies set by said operating frequency setting device.”

Applicant believes that the above-quoted portion of claim 1 supports the later added element of claim 1, i.e., “wherein said operating frequency setting device sets the operating frequency of said display unit to either one of the first and second operating frequencies based on whether a shutter button of said image sensing apparatus is operated or not.”

**Rejection under 35 U.S.C. §103**

Claims 1-5, 8, 10-17, 20, 23-29, 32, and 34-36 have been rejected over Saito in view of Tanaka.

The rejections of claims 1-5, 8, 10-17, 20, 23-29, 32, and 34-36 are respectfully traversed. As explained more fully below, the requirements for such rejections are not met. In particular, none of the references teaches or discloses “[setting] the operating frequency ... based on the ON/OFF flag of the display unit”.

Applicant’s claim 1 as amended recites (emphasis added):

An image sensing apparatus, comprising:  
an image sensor configured to sense an image of a subject to obtain a sensed image;  
an operating frequency setting device configured to set an operating frequency of said image sensing apparatus to at least one of a first operating frequency or a second operating frequency different from said first operating frequency;  
a display unit configured to display the sensed image, said display unit being capable of displaying the sensed image at any one of the first and second operating frequencies set by said operating frequency setting device;  
a sensing device configured to sense an operation causing pre-processing for photographic processing; and  
a storage device storing a flag indicating an ON/OFF setting of said display unit,  
wherein said operating frequency setting device sets the operating frequency of said image sensing apparatus based on the ON/OFF flag of the display unit and whether said sensing device senses the pre-processing operation or not, and  
wherein said operating frequency setting device sets the operating frequency of said display unit to either one of the first and second operating frequencies based on whether a shutter button of said image sensing apparatus is operated or not.

The issue here is not to determine whether the LCD 107 is continuously turned ON in mode “b” or “c”, as discussed in the Office Action. Rather, it is whether the ON/OFF flag of the display unit, or LCD, is one of the causes in determining frequency switching in the image

sensing apparatus. (Emphasis added). In other words, does the ON/OFF flag of display unit cause the frequency setting device to change operating frequency, or to switch modes in Tanaka, as it does in claim 1? It's clear from Tanaka that the LCD or the display unit, regardless of its ON/OFF status, is the result rather than the cause of mode switching. According to Tanaka, the only cause of the mode switching is the shutter button, i.e., half-press, full-pressed, or released while the data storage is completed. On the contrary, in independent claim 1, "[o]perating frequency setting device sets the operating frequency of said image sensing apparatus based on the ON/OFF flag of the display unit" (Emphasis added). In other words, the ON/OFF flag of the display unit recited in claim 1 is one of the causes that determine the operating frequency of the image sensing apparatus. Since Tanaka does not make it clear whether the LCD is turned ON or OFF during mode "b" or "c", and Tanaka is silent as to whether the LCD shall be a cause of frequency switching, Applicant reasonably assumes the ON/OFF status of LCD has nothing to do with the cause of frequency switching in Tanaka.

Applicant's assertion can further be reinforced by Tanaka itself in the fact that the display unit, or LCD, might be turned on during mode "b" or "c". Although Tanaka is completely silent as to whether LCD is turned ON or OFF during mode "b" or "c", Tanaka suggests that "[t]he invention also applies to a video camera that picks up moving pictures... when the driving frequency of a solid state image sensing device incorporated in the video camera is varied depending on the operating mode in effect." (Tanaka, col. 9, lines 34-39). It's well known to an ordinary person in the relevant art that in order for a video camera to function properly, it requires the display unit to be turned ON during preview mode (mode "a") AND recording mode (mode "b" and probably mode "c" as well). It is clear that the invention disclosed in Tanaka can

be applied to a video camera where LCD is turned ON during mode “b” or even mode “c”.

Therefore, since LCD is turned ON in mode “b” and probably in mode “c”, both of which have different operating frequency than that in mode “a”, given other facts disclosed in Tanaka, it is reasonably inferred that Tanaka does not intend to and in fact can not choose ON/OFF status of LCD as a determining cause in frequency switching of an image sensing apparatus.

Accordingly, based on the factual supports and logical analysis, it is respectfully asserted that Tanaka does not teach, disclose or suggest to set “the operating frequency of said image sensing apparatus based on the ON/OFF flag of the display unit” as recited in claim 1. As made clear by the examiner, although Saito discloses an image sensing apparatus comprising an image sensor, an operating frequency setting device, a display unit, a sensing device, and a storage device, Saito does not teach “A) wherein said operating frequency setting device sets the operating frequency of said image sensing apparatus based on whether said display unit is turned on or not and B) wherein the storage device stores a flag indicating an ON/OFF setting of the display unit such that the operation may be controlled according to the store flag” (Office Action 06/16/2006, p. 7). Therefore, independent claim 1 is asserted to be patentable over Saito in view of Tanaka, because none of the references teaches setting operating frequency based on ON/OFF flag of the display unit. For the similar reasons, independent claims 13 and 25 are also asserted in condition for allowance.

Nonetheless, independent claims 1, 13 and 25 have been amended for further clarification. The amended claims also reflect the languages suggested by the Examiner during the August 4, 2006 telephone interview. In particular, amended claim 1 recites, *inter alia*, “wherein said operating frequency setting device sets the operating frequency of said image sensing apparatus

based on the ON/OFF flag of the display unit, the ON/OFF flag of the display unit being the cause in determining the operating frequency of the image sensing apparatus, and wherein said operating frequency setting device sets the operating frequency of said display unit to either one of the first and second operating frequencies based on whether said sensing device senses the pre-processing operation or not. Other independent claims 13 and 25 are amended in a similar manner.

Applicant believes that amended claims 1, 13 and 25 further distinguishes over the cited art of record (i.e., Saito and Tanaka).

Reconsideration and withdrawal of the rejections of claims 1, 13 and 25 under 35 U.S.C. §103(a) is respectfully requested.

Applicant has not individually addressed the rejections of the dependent claims because Applicant submits that the independent claims from which they respectively depend are in condition for allowance as set forth above. Applicant however reserves the right to address such rejections of the dependent claims should such be necessary.

Applicant believes that the application as amended is in condition for allowance and such action is respectfully requested.

**AUTHORIZATION**

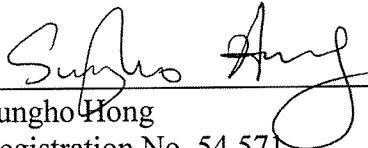
No petitions or additional fees are believed due for this amendment and/or any accompanying submissions. However, to the extent that any additional fees and/or petition is required, including a petition for extension of time, Applicant hereby petitions the Commissioner to grant such petition, and hereby authorizes the Commissioner to charge any additional fees, including any fees which may be required for such petition, or credit any overpayment to Deposit Account No. 13-4500 (Order No. 1232-4713). A DUPLICATE COPY OF THIS SHEET IS ENCLOSED.

An early and favorable examination on the merits is respectfully requested.

Respectfully submitted,  
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Dated: September 13, 2006

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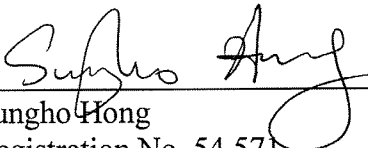
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